

### **REMARKS**

Presently, claims 1-4 and 15-22 are pending in this application. Claims 5-14 have been canceled. Claims 1-4 have been amended. Claims 15-22 have been added. The amendments to claims 2-4 relate to the correction of formal matters. Support for the amendment to claim 1 may be found, for example, in original claim 1 and pages 2-3 of the specification. Support for the features of claims 15-22 may be found, for example, in original claim 1 and on pages 2 and 3 of the specification. Therefore, no new matter has been added by the foregoing amendments.

### ***Double Patenting***

The Examiner has rejected claims 1-14 under the judicially created doctrine of Double Patenting (obviousness type). The Examiner asserts that claims 1-14 are unpatentable over claims 1-61 of U.S. Patent No. 6,684,194 to Eldering *et al.* ("the '194 patent"). The Examiner further asserts that claims 1-14 are unpatentable over claims 1-29 of U.S. Patent No. 6,714,917 to Eldering *et al.* ("the '917 patent").

Applicants have submitted herewith a Terminal Disclaimer under 37 C.F.R. §1.321(b), stating that the present application and the '194 patent and the '917 patent, respectively, are commonly owned and disclaiming the terminal part of the statutory term of any patent granted on the present application which would extend beyond the full statutory term of the '194 patent or the '917 patent, respectively. A statement under 37 C.F.R. 3.73(b), showing chain of title of the present application, is also enclosed herewith. Claims 6-14 have been canceled and therefore the Examiner's rejection is moot with respect to these claims. Reconsideration and withdrawal of the Examiner's non-statutory double patenting rejection of claims 1-14 are respectfully requested. New claims 15-22 are believed to be patentable in light of the included Terminal Disclaimer.

***Claim Rejection – § 102 (a)***

The Examiner has rejected claims 1-14 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 5,977,964 to Williams *et al.* (“Williams”). The Examiner contends that Williams teaches all elements of these claims. Applicants respectfully traverse this rejection.

Williams discloses a method and apparatus for automatically configuring a television entertainment system based on a user’s monitored system interactions. The system described by Williams monitors user interactions with the system and stores them in a behavior log (column 9, lines 23-27). The system then compares information in the behavior log as well as current system settings with user preference information of known users (column 9, lines 27-31). The system in Williams determines “which user of a plurality of known system users is currently using the system...” (column 5, lines 35-38).

Independent claim 1 recites:

In a data processing system, a method of identifying a subscriber comprising the steps of:

- (a) monitoring a plurality of viewing sessions;
- (b) clustering the viewing sessions wherein the sessions within a cluster have a common identifier representative of subscriber selection data; and
- (c) identifying a subscriber as belonging to one of the clusters by comparing a plurality of subscriber selections to the subscriber selection data corresponding to the clusters of viewing sessions.

Williams does not disclose “clustering the viewing sessions wherein the sessions within a cluster have a common identifier representative of subscriber selection data ...” Instead, Williams discloses monitoring user interactions and recording these interactions in a behavior log. Williams then determines whether the information of the behavior log “matches that of the data for any of the known system users.” The system then updates users’ preference information. Therefore, Williams only matches a behavior log with the data for known system users and updates user preference information. However,

updating user preference information is not the same as clustering viewing sessions. The Examiner argues that viewing sessions are clustered in the user profile database. As can be seen in Fig. 8, the user profile database 800, does not contain information related to clustered viewing sessions. The user profile database merely contains a set of preferences related to a particular user profile. This is not a cluster of viewing sessions (nor as represented could the user profile database store a cluster of viewing sessions), but instead table of user preferences.

Further, even if Williams does disclose clustering, Williams can not be said to teach clustering based on “a common identifier representative of subscriber selection data.” In Williams user preference information stored in the user profile database is updated only after the user is identified. Fig. 2 of Williams clearly shows that step 204, where the “System Controller Determines Which User is Currently Using the System,” occurs before step 210, where the “System Controller Monitors and Updates User Profile Information.” If the Examiner contends that updating user profile information is “clustering” then the updating of user profile information, in Williams must be based on which user is identified, not based on “a common identifier representative of subscriber selection data,” as recited in claim 1.

Additionally, Williams does not disclose “identifying a subscriber as belonging to one of the clusters by comparing a plurality of interactions for the subscriber to the subscriber selection data contained within the clusters of viewing sessions.” Williams functions by determining “which user of a plurality of known users is currently using the system” (column 5, lines 35-38). Further, Williams teaches that “In step 304, system controller 104 compares the information contained in the behavior log as well as the current system settings with user preference information for at least a subset of the plurality of entertainment system users” (column 9, lines 28-31). Clearly, Williams compares user inputs with “user preference information” and does not compare “a plurality of subscriber selections to the subscriber selection data corresponding to the clusters of viewing sessions.” Further, Williams suggests that there be profiles for “known system users,” that are pre-existing; claim 1, however, clusters viewing sessions to use for comparison with subscriber selections. Accordingly, Williams does not disclose all of the features of claim 1.

Independent claim 15 recites, "... a grouping the previous viewing sessions into at least one session group according to at least one common identifier..." and "...comparing said plurality of inputs to said at least one session group..." Similarly, independent claim 16 recites, "...grouping viewing sessions from said plurality of viewing sessions according to at least one common identifier in said subscriber selection data to form at least one session group ..." and "...creating a probabilistic determination of subscriber profile of said at least one session group based on the subscriber selection data." For the same reasons discussed above with respect to independent claim 1, Williams does not disclose all of the elements of independent claims 15 and 16. Therefore, claims 15 and 16 are believed to be allowable over Williams.

Dependent claims 2-4 and 17-22 are believed to be allowable at least by their dependence on claims 1 and 16, respectively. Claims 5-13 have been canceled. Therefore, the Examiner's rejections to claims 1-8 and 10-13 have been overcome. Reconsideration and withdrawal of the Examiner's §102(a) rejection of claims 1-8 and 10-13 are respectfully requested.

***Claim Rejection – § 103 (a)***

The Examiner has rejected claims 9 and 14 as being unpatentable under 35 U.S.C. § 103(a) over Williams in view of U.S. Patent No. 5,465,308 to Hutcheson et al. ("Hutcheson"). The Examiner contends that it would have been would have been obvious to combine the teachings of Williams and Hutcheson to teach every aspect of claim 9. Applicants respectfully traverse this rejection.

Claims 9 and 14 have been canceled. Therefore, the Examiner's rejection to claims 9 and 14 is moot. Reconsideration and withdrawal of the Examiner's §103(a) rejection of claims 9 and 14 is respectfully requested.

***Conclusion***

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 1-4 and 15-22, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

Date: 7/12/06

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